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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,710	01/02/2004	Stephen P. DeLisle	9438-2	4095
20792	7590	01/03/2005	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			WONG, STEVEN B	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 01/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,710

Applicant(s)

DELISLE ET AL.

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1-2-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges (1,645,001). Regarding claim 1, Hodges discloses a golf tee comprising an elongate shaft (10) and a support cup (11). The support cup has a discontinuous annulus (note Figure 2) defining three arcuate support prongs (15).

Regarding claim 8, Hodges includes flutes (18) in the shaft.

Regarding claim 9, note Figure 1 showing the shaft decreasing in diameter along the length.

Regarding claim 11, note Figure 1 showing a concave upper surface for the base portion.

Regarding claims 12 and 13, Hodges discloses for his tee to be formed from a biodegradable material.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hodges (1,645,001). The prongs (15) of Hodges appear to be

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of a secant length that is greater than a dimple of a conventional golf ball. In the alternative, even though Hodges does not disclose for his dimples to not fit within the dimples of a golf ball, it would have been obvious to one of ordinary skill in the art to form the prongs of a length greater than a golf ball dimple in order to firmly support a golf ball.

Claim Rejections - 35 USC § 103

5. Claims 3, 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges (1,645,001). The recited secant length and taper angle are considered to be obvious given the teachings of Hodges and the lack of a teaching for the claimed dimensions' criticality by the demonstration of a new and unexpected result obtained therefrom.

6. Claims 5, 15-19, 22-27, 29-33, 36-40, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges (1,645,001) in view of Dawson, Jr. (2,693,358). Regarding claim 5, Hodges lacks the teaching for support prongs to comprise a convex contact surface with the golf ball.

Dawson, Jr. reveals a golf tee construction including a contact surface for a golf ball. Note Figures 2 and 3a showing a non-convex contact surface (5) and a convex contact surface (15). Note also column 2, lines 52-54 stating that the convex contact surface provides a better seat for a golf ball. Thus, it would have been obvious to one of ordinary skill in the art to form the prongs of Hodges with a convex contact surface in order to better support a teed golf ball.

Regarding claims 15 and 29, note the rejections of claims 1, 2 and 5 above.

Regarding claims 16, 17, 23, 24, 30, 31, 37 and 38, note the rejection of claims 3, 4, 9 and 10.

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Regarding claims 18, 19, 32 and 33, the recited radii of curvature for the contact surfaces is considered to be obvious given the teachings of Hodges in view of Dawson, Jr. and the lack of a teaching for the claimed dimensions' criticality by the demonstration of a new and unexpected result obtained therefrom.

Regarding claims 22 and 36, note the rejection of claim 8.

Regarding claims 25, 26, 39 and 40, note the rejections of claims 12 and 13.

Regarding claims 27 and 42, note the rejection of claim 11.

Regarding claim 43, note the rejections of claims 1, 2 and 5. Further, the recited dimension for the contact area between the contact surfaces and the golf ball resting on the contact surfaces is considered to be obvious given the teachings of Hodges in view of Dawson and the lack of a demonstration for the criticality of the claimed dimension by a new and unexpected result obtained therefrom.

7. Claims 6, 20 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges (1,645,001) in view of Dawson, Jr. (2,693,358) and Seager (2,455,705). Seager discloses a golf tee construction including a plurality of prongs that support a golf ball. Note Figures 1 and 3 showing that both three and four configurations are known in the art. It would have been obvious to one of ordinary skill in the art to form the golf tee of Hodges with four prongs as Seager teaches that golf tees with three or four prongs are considered to be equivalents in the art and one of ordinary skill in the art would have found it obvious to substitute four prongs for three prongs in the golf tee.

8. Claims 7, 21 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges (1,645,001) in view of Dawson, Jr. (2,693,358) and Clausing (1,644,979). Clausing

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discloses a golf tee including a concave support surface (8) that does not contact a golf ball (note Figure 3). It would have been obvious to one of ordinary skill in the art to form the golf tee of Hodges with a radius of curvature for the support surface such that the golf ball only contacts the prongs in order to minimize the resistance to the golf ball at the moment of departure from the tee.

9. Claims 14, 28 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges (1,645,001) in view of Dawson, Jr. (2,693,358) and Tan (6,710,135). Tan discloses a biodegradable golf tee construction including a polylactic acid. It would have been obvious to one of ordinary skill in the art to form the tee of Hodges with a polylactic acid for the reasons advanced by Tan.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven Wong
Primary Examiner
Art Unit 3711

SBW
December 27, 2004